IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Mukesh Kumar Versus State of Rajasthan.

S.B. Criminal Misc. Petition No. 102/2007
against the order dated 15-12-2006 passed
by Judicial Magistrate, Ist Class, Raisinghnagar
in Criminal Case No. 155/2006.

...

Date of Order : 09/07/2007

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. R.C. Joshi, for the petitioner.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.

BY THE COURT:

Issue notice for final disposal. Mr. Ashok Upadhyay, public prosecutor is directed to accept notice for the respondent State. He accepts the notice. Learned counsel for the petitioner has supplied the copy of criminal revision petition to public prosecutor.

With the consent of learned counsel for the parties, the petition is finally heard and decided at the admission stage.

By the instant criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter), the petitioner has challenged the order dated 15.12.2006 passed by Judicial Magistrate, Ist Class,

Raisinghnagar, District Sriganganagar (for short 'the trial court' hereinafter) in Criminal Case No. 155/2006 arising out of FIR No. 145/2006 Police Station, Muklawa, District Sriganganagar for the offence under Section 41-42 of the Forest Act.

I have heard learned counsel for the parties.

It is contended by learned counsel for the petitioner that the petitioner cut the wood from his own field after taking permission from the Tehsildar by paying the requisite fee and a receipt has also been shown and thus according to the learned counsel for the petitioner the woods seized is not forest produce but it was cut from the petitioner's own field and for domestic use, a permission was sought from the Tehsildar having jurisdiction under the provisions of Rajasthan Land Revenue Act and accordingly the permission was granted. Learned counsel submits that a notification dated 19.1.1991 has been issued by the State Government which provides that certain woods have been exempted from being forest produce and Shisham falls in that category and thus according to learned counsel for the petitioner, the alleged Shisham wood was cut by the petitioner from his own agriculture field on the permission granted by the Tehsildar (Revenue), Raisinghnagar dated 7.11.2006 by paying requisite fees.

This Court in Om Prakash Vs. State of Rajasthan, S.B.Criminal Misc. Petition No.658/2006 decided on 13.10.2006

on similar facts allowed the petition and released the wood on Supurdginama. The facts of the instant case are identical to that of Om Prakash (supra). In this view of the matter, in my view, the ends of justice would be met if the wood in question is released on Supurdginama to the petitioner.

In the result, the criminal miscellaneous petition is allowed. The order impugned dated 15-12-2006 passed by the trial Court in Criminal Case No. 155/2006 is set aside and the trial Court is directed to release the wood in question on Supurdginama to the petitioner on furnishing a personal bond in the sum of Rs.10,000/- with a surety in the like amount to the satisfaction of the trial Court.

(H.R. PANWAR), J.

rp.